

REMARKS

The present application was filed on December 31, 2001 with claims 1-23. Claims 1-12 and 14-23 remain pending. Claims 1, 15-17, and 23 are the pending independent claims.

In response to the final Office Action, Applicant amends claims 1, 11, 15-17 and 23 and cancels claim 13.

Independent claims 1, 15-17 and 23 have been amended to recite that the voter interface unit is further operative to connect the voter with a live poll worker equipped to communicate with the particular type of disability related communication device being used by the voter. This is based on the identification of the type of disability related communication device. Thus, the independent claims of the present invention incorporate the limitations of now canceled claim 13. Support for the amendments can be found in claim 13 and in the specification at, for example, page 8, lines 7-18.

Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,875,432 (hereinafter "Sehr") in view of U.S. Patent No. 5,293,464 (hereinafter "Hirano"), U.S. Patent No. 6,250,548 (hereinafter "McClure"), U.S. Patent No. 6,496,802 (hereinafter "van Zoest") and U.S. Patent No. 6,149,055 (hereinafter "Gatto"). The Examiner cites the van Zoest and Gatto references in rejecting the limitation of enabling a voter interface unit to connect the voter with a live poll worker equipped to communicate with the particular type of disability related communication device being used by the voter. The Examiner contends that van Zoest discloses an electronic system for accessing live online help from a customer service representative. However, van Zoest describes a system and method for providing access to electronic works. More specifically, the portion of van Zoest cited by the Examiner describes the comparison of stored electronic data to data on a CD loaded in a computer. Furthermore, the Examiner contends that Gatto discloses the display of different types of menus according to identification information provided by a user. However, Gatto describes an electronic fund transfer system, which allows a user to select a desired transaction with a single selection.

Thus, the proposed combination of van Zoest and Gatto with Sehr, Hirano and McClure fails to disclose the connection of a voter interface unit with a live poll worker. Further, the combination fails to disclose that the poll worker is equipped to communicate with a particular type of disability related communication device being used by a voter. Finally, the combination fails to disclose that

the ability to connect the voter with a live poll worker, equipped to communicate with the specific disability device, is based on identification of the type of disability related communication device as performed by the voter interface unit.

Second, with respect to claims 1, 15-17 and 23, Applicant asserts that no motivation or suggestion exists to combine Sehr, Hirano, McClure, van Zoest and Gatto in a manner proposed by the Examiner, or to modify their teachings to meet the claim limitations. For at least this reason, a *prima facie* case of obviousness has not been established.

The Federal Circuit has stated that when patentability turns on the question of obviousness, the obviousness determination “must be based on objective evidence of record” and that “this precedent has been reinforced in myriad decisions, and cannot be dispensed with.” In re Sang-Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). Moreover, the Federal Circuit has stated that “conclusory statements” by an examiner fail to adequately address the factual question of motivation, which is material to patentability and cannot be resolved “on subjective belief and unknown authority.” Id. at 1343-1344.

In the final Office Action, in paragraph 6 of page 5, the Examiner provides the following statement to prove motivation to combine Sehr, Hirano, McClure and van Zoest:

It would have been obvious . . . to incorporate the live online help as taught by van Zoest to the election system of Sehr/Hirano/McClure in order to provide an real time assistance for the disabled voter if he/she need an aid during the voting processing. Moreover, such modification would provide a rapid processing means for resolving any difficulties/problems that each individuals may be encoutnered during voting even, due to the fact that such real time responding system would substantially reduce the voting time to conduct the voting event within the predetermined period of time, and therefore an obvious expedient.

Further, in the final Office Action, in paragraph 6 of page 6, the Examiner provides the following statement to prove motivation to combine Sehr, Hirano, McClure, van Zoest and Gatto:

It would have been obvious . . . to incorporate the teachings of Gatto to the teachings of Sehr/Hirano/McClure/van Zoest in order to provide a customizing means for supporting the different type of menu according to the individuals needs, e.g., displaying/outputting menu using the Braille output unit if the identification

information is indicated the user is in need of such device and providing the online help via the Braille input/output unit appropriately, and therefore an obvious expedient.

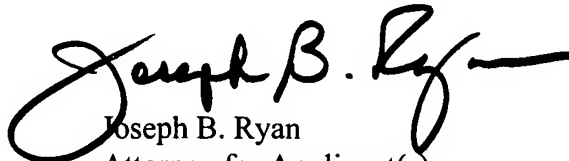
Applicant submits that these statements of obviousness are conclusory, and based on the type of "subjective belief and unknown authority" that the Federal Circuit has indicated provides insufficient support for an obviousness rejection. More specifically, the Examiner fails to identify any objective evidence of record which supports the proposed combination.

Lastly, with respect to claims 1, 15-17 and 23, Applicant asserts that there is no reasonable expectation of success in achieving the present invention through a combination of Sehr, Hirano, McClure, van Zoest and Gatto. Despite the assertion in the final Office Action, Applicant does not believe that Sehr, Hirano, McClure, van Zoest and Gatto are combinable since it is not clear how one would combine them to reach the claimed invention. No guidance was provided in the final Office Action as to how the five references can be combined to achieve the present invention. However, even if combined, for the sake of argument, they would not achieve the techniques of the claimed invention, as described above.

It is believed that the claims as amended recite patentable subject matter over the cited art.

In view of the above, Applicant believes that claims 1-12 and 14-23 are in condition for allowance, and respectfully requests withdrawal of the §103(a) rejections.

Respectfully submitted,



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Date: March 16, 2004